

HM

SEP 02 2003

Michael N. Milby, Clerk

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

IN RE:	§	
	§	
HARVEN MICHAEL MCKENZIE, et al.	§	JOINTLY ADMINISTERED UNDER
_____	§	CASE NO. 95-47219-H5-7
	§	
W. STEVE SMITH, TRUSTEE,	§	
	§	
Plaintiff,	§	
v.	§	ADVERSARY NO. 97-4114
	§	and ADVERSARY NO. 97-4155
HARVEN MICHAEL MCKENZIE, et al.,	§	
	§	
Defendants.	§	CONSOLIDATED FOR TRIAL

**MOTION FOR LEAVE TO WITHDRAW
AS COUNSEL FOR RAUBALL DEFENDANTS**

Robert B. Crotty, of the firm of Crotty & Johansen, L.L.P. (collectively, “Crotty & Johansen”), files this Motion for Leave to Withdraw as Counsel for Defendants Wolfgang and Reinhard Rauball and respectfully state:

1. Crotty & Johansen assumed the representation of the Rauball Defendants in this action in June 2000. Since that time, Crotty & Johansen has diligently represented the Rauballs.

2. Crotty & Johansen requests leave of Court to withdraw as counsel for the Rauballs in this action and asserts that good and just cause exists in providing the requested relief.

3. Despite numerous requests for payment, the Rauballs have failed to compensate Crotty & Johansen for its legal services rendered in connection with this action. As of the

filing of this motion, Crotty & Johansen is owed in excess of \$40,000 in attorney's fees and related litigation costs.

4. The Rauballs have not paid Crotty & Johansen since November 2002 despite repeated requests for payment and despite numerous promises by the Rauballs that payment would be forthcoming.

5. Crotty & Johansen has made numerous efforts to obtain payment of its invoices. These efforts included at least 15 written requests sent on December 3, 2002, December 30, 2002, February 4, 2003, February 13, 2003, March 4, 2003, March 17, 2003, April 15, 2003, June 10, 2003, June 30, 2003, July 10, 2003, July 16, 2003, July 22, 2003, August 1, 2003, August 7, 2003, and August 12, 2003. The Rauballs have failed to make any payments despite making promises to do so.

6. Continued representation of the Rauballs has created a severe financial hardship on Crotty & Johansen, and the financial hardship will only increase with each passing day.

7. Crotty & Johansen submits that this relief will not adversely affect the Rauballs and will not impact this action. Defendants' joint motion to dismiss is currently pending before the Court. There is no scheduling order in effect, and no trial date set in this action. There exists a sufficient and reasonable time frame for the Rauballs to obtain new counsel. Consequently, neither the Court nor any party herein will be prejudiced by the Crotty & Johansen withdrawal as counsel.

8. This motion is not made for the purpose of delay, but solely based on matters arising out of counsel's attorney-client relationship.

For these reasons, Crotty & Johansen respectfully prays that the Court grant this motion, enter an order authorizing Crotty & Johansen to withdraw as counsel for the Rauballs, and granting Crotty & Johansen such other relief to which it is entitled.

IF YOU WANT A HEARING, YOU MUST REQUEST ONE IN WRITING, AND YOU MUST RESPOND SPECIFICALLY TO EACH PARAGRAPH OF THIS PLEADING. YOU MUST FILE YOUR RESPONSE WITH THE CLERK OF THE BANKRUPTCY COURT WITHIN TWENTY DAYS FROM THE DATE YOU WERE SERVED AND GIVE A COPY TO THE PERSON WHO SENT YOU THE NOTICE; OTHERWISE, THE COURT MAY TREAT THE PLEADING AS UNOPPOSED AND GRANT THE RELIEF. IF A PARTY REQUESTS EMERGENCY CONSIDERATION, THE COURT MAY ACT EXPEDITIOUSLY ON THE MATTER.

IF THE COURT ALLOWS A SHORTER RESPONSE TIME THAN TWENTY DAYS, YOU MUST RESPOND WITHIN THAT TIME. IF THE COURT SETS AN EMERGENCY HEARING BEFORE THE RESPONSE TIME WILL EXPIRE, ONLY ATTENDANCE AT THE HEARING IS NECESSARY TO PRESERVE YOUR RIGHTS. IF AN EMERGENCY HEARING IS NOT SET, YOU MUST RESPOND BEFORE THE RESPONSE TIME EXPIRES.

Respectfully Submitted,


Robert B. Crotty
State Bar No. 05139800

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ATTORNEYS FOR DEFENDANTS
WOLFGANG RAUBALL AND
REINHARD RAUBALL

CERTIFICATE OF SERVICE

I certify that I served a copy of the foregoing Motion for Leave to Withdraw as Counsel by First Class Mail or facsimile on the parties listed below on this 29th day of August, 2003.

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